

Senator R. B. Green, on the part of the Senate, and Representative W. P. Lane, on the part of the House, are hereby authorized and requested to personally extend this invitation.

Hudspeth, Grinnan, Cunningham, Greer, Murray, Barrett, Faust, Stone, Senter, Meachum, Paulus, Looney, Mayfield, Skinner, Terrell, Kellie, Green, Smith, Alexander, Chambers, Glasscock, Willacy, Brachfield, Watson, Harper, Stokes.

And find it correctly enrolled, and have this day, at 2:45 o'clock p. m., presented same to the Governor for his approval.

GRINNAN, Acting Chairman.

FOURTEENTH DAY.

Senate Chamber,
Austin, Texas,
Wednesday, May 1, 1907.

The Senate met pursuant to adjournment, Lieutenant Governor Davidson presiding.

Roll call, quorum present, the following Senators answering to their names:

Alexander.	Masterson.
Barrett.	Mayfield.
Brachfield.	Meachum.
Cunningham.	Murray.
Faust.	Paulus.
Green.	Senter.
Greer.	Skinner.
Griggs.	Smith.
Grinnan.	Stokes.
Harbison.	Stone.
Harper.	Terrell.
Hudspeth.	Watson.
Kellie.	Willacy.
Looney.	

Absent.

Chambers.	Holsey.
Glasscock.	Veale.

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Alexander, the same was dispensed with.

(See Appendix for committee reports.)

BILLS AND RESOLUTIONS.

By Senator Barrett:

Senate bill No. 56, A bill to be entitled "An Act to amend Article 402, Chapter 6, Title XI, of the Criminal Statutes of the Revised Criminal Statutes of 1895, pertaining to punishment for selling intoxicating liquors in viola-

tion of local option laws, and declaring an emergency."

Read first time, and referred to Judiciary Committee No. 2.

By Senators Barrett and Alexander:

Senate bill No. 57, A bill to be entitled "An Act to amend Article 402 of Chapter 6, Title XI, Penal Code of the State of Texas, as amended by Chapter XL, of the Regular Session of the Twenty-eighth Legislature of the State of Texas, approved March 16, 1903, relating to unlawfully selling any intoxicating liquor, prescribing the punishment therefor, and declaring an emergency."

Read first time, and referred to Judiciary Committee No. 2.

Morning call concluded.

HOUSE BILL NO. 2.

The Chair laid before the Senate, under the Rule.

House bill No. 2, A bill to be entitled "An Act to amend Article 2439a, Chapter 41, Title XLV, of the Revised Civil Statutes of Texas, relating to fees of office charged and collected by certain State officers, as amended by Chapter 91 of the General Laws of the Regular Session of the Twenty-ninth Legislature of Texas, and adding thereto Article 2439a, prohibiting the approval or payment of any account or claim to any official who refuses or fails to take out his commission, and declaring an emergency."

The question being on the adoption of a committee report that the bill be not printed, and with an amendment.

SENATE BILL NO. 55.

Senator Looney moved to suspend the regular order of business, Senate bill No. 2, and take up, out of its order, Senate bill No. 55.

Which motion was adopted by the following vote:

Yeas—24.

Alexander.	Masterson.
Barrett.	Mayfield.
Brachfield.	Meachum.
Cunningham.	Murray.
Faust.	Paulus.
Green.	Skinner.
Greer.	Smith.
Griggs.	Stokes.
Harper.	Stone.
Hudspeth.	Terrell.
Kellie.	Watson.
Looney.	Willacy.

Nays—2.

Grinnan.

Senter.

Absent.

Chambers.

Holsey.

Glasscock.

Veale.

Harbison.

The Chair laid before the Senate, on second reading.

Senate bill No. 55, A bill to be entitled "An Act to amend an act passed at the Regular Session of the Thirtieth Legislature, entitled 'An Act to provide for a board to calculate State purposes each year, and to prescribe the duties of such board and certain duties of the tax assessors of the various counties in this State,' providing that said board shall also calculate the ad valorem rate of taxes for public free school purposes and also authorizing the commissioners courts of the several counties of this State to calculate the rate and to adjust the taxes levied in the several counties or portions thereof, for general or special purposes to the taxable values as shown on the assessment rolls."

On motion of Senator Looney, the committee report, which provided that the bill be not printed, was adopted.

Senator Looney offered the following amendment, which was adopted:

Amend the bill by striking out Section 2, and insert a new section, as Section 2, to read as follows:

"Sec. 2. It shall be the duty of the tax assessor of each county in this State to make to the Comptroller of Public Accounts a certified statement showing the total amount of property in such county subject to taxation on or before the 15th day of August of the year 1907, and each year thereafter; provided, that the taxes for State and public free school purposes shall not be calculated and carried out upon said rolls."

Amend Section 3 of the bill by striking out the words "tax rolls" where they appear, and insert in lieu thereof the words "certified statements."

Amend the bill, Section 4, by striking out the following concluding language of said section: "The copy of the tax rolls which was originally in his hands," and insert in lieu thereof the following: "A copy of the same."

Senator Looney offered the following amendment:

Amend the bill by adding a new section as Section 6, and renumber the sections to conform:

"Sec. 6. The trustees of towns and villages that have been or may be in-

corporated for school purposes shall have the power, at any regular or special session of the board, after any levy of taxes has been made, if convinced that the levy is excessive, to reduce the same so that no more money may be collected than is necessary to meet the liabilities of the school corporation."

Also amend the caption by adding thereto the following: "Also authorizing trustees of towns and villages incorporated for school purposes to reduce an excessive levy."

Pending.

EXECUTIVE SESSION.

Here the Chair announced that the hour for the Senate to proceed to executive session for the purpose of considering the appointment sent to the Senate by the Governor.

In executive session the following appointment was confirmed:

Judge of the Sixty-seventh Judicial District of Texas—W. T. Simmons, of Tarrant county.

IN THE SENATE.

The pending question being on the amendment offered by Senator Looney to Senate bill No. 55.

Senator Alexander offered the following amendment to the amendment:

Amend the amendment by inserting after the word "purposes," in line 2 of Section 6 of the amendment, the following: "Or the mayor and council of any city or town having exclusive control of the public free school, or the school boards in such cities as may have under the law the power to levy such taxes."

Also make the same insertion after the word "purposes" in the amendment to the caption.

Pending.

Senator Green moved that further consideration of this bill be postponed until tomorrow morning after morning call, which motion was adopted.

HOUSE BILL NO. 2.

The Chair laid before the Senate, on second reading and as pending business,

House bill No. 2, A bill to be entitled "An Act to amend Article 2439a, Chapter 41, Title XLV, of the Revised Civil Statutes of Texas, relating to fees of office charged and collected by certain State officers, as amended by Chapter 91 of the General Laws of the Regular Session of the Twenty-ninth Legislature of Texas, and adding thereto Article

2439a, prohibiting the approval or payment of any account or claim to any official who refuses or fails to take out his commission, and declaring an emergency."

The committee report, which provided that the bill be not printed and with an amendment, was adopted.

Senator Senter offered the following amendment, which was adopted:

Amend line 5, printed bill, page 2, by inserting the word "or" between the words "charter" and "amendment."

Senator Willacy offered the following amendment, which was adopted:

Amend the printed bill, page 2, line 5, by striking out the word "or" between the words "thereto" and private corporation," and insert the words "of a" in lieu thereof.

The bill was read second time, and passed to third reading.

On motion of Senator Willacy, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third reading and final passage by the following vote:

Yeas—24.

Alexander.	Kellie.
Barrett.	Masterson.
Brachfield.	Mayfield.
Cunningham.	Meachum.
Faust.	Murray.
Green.	Paulus.
Greer.	Skinner.
Griggs.	Smith.
Grinnan.	Stone.
Harbison.	Terrell.
Harper.	Watson.
Hudspeth.	Willacy.

Absent.

Chambers.	Looney.
Glasscock.	Stokes.
Holsey.	Veale.

Present—Not Voting.

Senter.

Senator Hudspeth offered the following amendment:

Amend the printed bill by striking out the words "ten dollars," in line 11, page 2, and insert in lieu thereof "five dollars."

The amendment was lost by the following vote:

Yeas—7.

Hudspeth.	Paulus.
Kellie.	Senter.
Mayfield.	Watson.
Meachum.	

Nays—18.

Alexander.	Harbison.
Barrett.	Harper.
Brachfield.	Murray.
Cunningham.	Skinner.
Faust.	Smith.
Green.	Stokes.
Greer.	Stone.
Griggs.	Terrell.
Grinnan.	Willacy.

Absent.

Chambers.	Looney.
Glasscock.	Masterson.
Holsey.	Veale.

(Senator Meachum in the chair.)

Senator Senter offered the following amendment:

Amend the bill, Article 2439, page 3, by striking out all after the words "date of such affidavit," in line 23, down to and including the words "of trade," in line 30.

Senator Cunningham moved the previous question on the pending amendment, which motion was adopted.

The amendment was lost by the following vote:

Yeas—5.

Faust.	Senter.
Griggs.	Smith.
Murray.	

Nays—19.

Alexander.	Kellie.
Barrett.	Masterson.
Brachfield.	Mayfield.
Cunningham.	Meachum.
Green.	Skinner.
Greer.	Stone.
Grinnan.	Terrell.
Harbison.	Watson.
Harper.	Willacy.
Hudspeth.	

Absent.

Chambers.	Paulus.
Glasscock.	Stokes.
Holsey.	Veale.
Looney	

The bill was read third time, and passed by the following vote:

Yeas—19.

Alexander.	Greer.
Barrett.	Griggs.
Brachfield.	Grinnan.
Cunningham.	Harbison.
Faust.	Harper.
Green.	Kellie.

Mayfield.	Terrell.
Meachum.	Watson.
Paulus.	Willacy.
Skinner.	

Nays—5.

Hudspeth.	Senter.
Masterson.	Stone.
Murray.	

Absent.

Chambers.	Smith.
Glasscock.	Stokes.
Holsey.	Veale.
Looney.	

Senator Willacy moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

HOUSE MESSAGE.

Hall of the House of Representatives,
Austin, Texas, May 1, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

House bill No. 7, A bill to be entitled "An Act to amend Chapter 146, Acts of the Twenty-ninth Legislature, approved April 17, 1905, an act for the taxation of the intangible assets of certain corporations, associations and individuals, and to provide for the creation of a State tax board, for the valuation of such intangible assets, and for the distribution of said values for local taxation, and for the assessment of said assets, and the levy and collection of taxes thereon, and to provide for the repeal of all laws and parts of laws laying taxes on the gross incomes of the corporations, associations and individuals affected by the provisions of this act, and providing for the creation of a board of tax commissioners, and prescribing its duties, and for the valuation, assessment and taxation of the intangible assets of certain individuals, companies, corporations and associations, and for the distribution of said assessments for local taxation, and for the levy and collection of State and county taxes thereon, and to provide penalties for the violation of this act, and preserving all assessments, findings, judgments, proceedings and orders made, found, had or entered under said act approved April 17, 1905, prior to the time this act goes into effect, and preserving all rights and remedies vested

or accrued under said act of April 17, 1905, and declaring an emergency."

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

BILLS READ AND REFERRED.

The Chair (Lieutenant Governor Davidson) had referred, after its caption had been read, the following House bill:

House bill No. 7, to Finance Committee.

RECESS.

On motion of Senator Skinner, the Senate, at 12:20 o'clock, recessed until 3 o'clock today.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

HOUSE BILL NO. 18.

The Chair laid before the Senate, on second reading and as pending business,

House bill No. 18, A bill to be entitled "An Act to amend Article 3231, Chapter 11, Title LXII, of the Revised Civil Statutes of Texas, 1895, relating to the verdict of juries in civil cases, so as to provide that in the trials of civil cases nine members of the jury concurring may render a verdict in the district court, and five jurors concurring may render a verdict in the county courts and courts of justices of the peace, and repealing all laws and parts of laws in conflict herewith."

The question being on the adoption of a committee report, there being a majority report that the bill do not pass, and a minority report that the bill do pass.

Senator Stone moved to adopt the majority report, that the bill do not pass.

Senator Brachfield, as a substitute, moved to adopt the minority report, that the bill do pass.

Senator Mayfield moved to adjourn until 10 o'clock tomorrow morning, which motion was lost by the following vote:

Yeas—10.

Alexander.	Hudspeth.
Brachfield.	Mayfield.
Cunningham.	Senter.
Green.	Smith.
Griggs.	Stokes.

Nays—15.

Barrett.	Faust.
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Greer.	Paulus.
Grinnan.	Skinner.
Harbison.	Stone.
Harper.	Terrell.
Kellie.	Watson.
Meachum.	Willacy.

Absent.

Chambers.	Looney.
Glasscock.	Masterson.
Holsey.	Veale.

Senator Harper moved to table the substitute motion offered by Senator Brachfield, which motion was adopted by the following vote:

Yeas—14.

Barrett.	Meachum.
Faust.	Paulus.
Grinnan.	Skinner.
Harbison.	Stone.
Harper.	Terrell.
Hudspeth.	Watson.
Kellie.	Willacy.

Nays—5.

Alexander.	Griggs.
Green.	Mayfield.
Greer.	

Absent.

Chambers.	Masterson.
Cunningham.	Senter.
Glasscock.	Stokes.
Holsey.	Veale.

PAIRED.

Senator Murray (present), who would vote "yea," with Senator Smith (absent), who would vote "nay."

Senator Brachfield (present), who would vote "nay," with Senator Looney (absent), who would vote "yea."

The question being on the adoption of the majority committee report, the roll call developed no quorum voting, as follows:

Yeas—14.

Barrett.	Meachum.
Faust.	Paulus.
Grinnan.	Skinner.
Harbison.	Stone.
Harper.	Terrell.
Hudspeth.	Watson.
Kellie.	Willacy.

Nays—4.

Green.	Griggs.
Greer.	Mayfield.

Absent.

Alexander.	Chambers.
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Cunningham.	Senter.
Glasscock.	Stokes.
Holsey.	Veale.
Masterson.	

PAIRED.

Senator Brachfield (present), who would vote "nay," with Senator Looney (absent), who would vote "yea."

Senator Murray (present), who would vote "yea," with Senator Smith (absent), who would vote "nay."

Senator Stone moved a call of the Senate for the purpose of securing a quorum, which call being duly seconded, the roll was called, the following Senators answering to their names:

Barrett.	Kellie.
Brachfield.	Mayfield.
Faust.	Meachum.
Green.	Murray.
Greer.	Paulus.
Griggs.	Skinner.
Grinnan.	Stone.
Harbison.	Terrell.
Harper.	Watson.
Hudspeth.	Willacy.

Absent.

Alexander.	Masterson.
Chambers.	Senter.
Cunningham.	Smith.
Glasscock.	Stokes.
Holsey.	Veale.
Looney.	

Senator Masterson was announced.

Senator Alexander was announced, and a quorum was announced present, and

The question being on the adoption of the majority committee report,

Senator Meachum moved the previous question on the motion, which being duly seconded, was so ordered.

The majority report was adopted by the following vote:

Yeas—15.

Barrett.	Meachum.
Faust.	Paulus.
Grinnan.	Skinner.
Harbison.	Stone.
Harper.	Terrell.
Hudspeth.	Watson.
Kellie.	Willacy.
Masterson.	

Nays—5.

Alexander.	Griggs.
Green.	Mayfield.
Greer.	

Absent.

Chambers.	Senter.
Cunningham.	Stokes.
Glasscock.	Veale.
Holsey.	

PAIRED.

Senator Murray (present), who would vote "yea," with Senator Smith (absent), who would vote "nay."

Senator Brachfield (present), who would vote "nay," with Senator Looney (absent), who would vote "yea."

Senator Meachum moved to reconsider the vote by which the majority report was adopted, and lay that motion on the table.

The motion to table prevailed by the following vote:

Yeas—16.

Barrett.	Meachum.
Brachfield.	Murray.
Faust.	Paulus.
Grinnan.	Skinner.
Harbison.	Stone.
Harper.	Terrell.
Kellie.	Watson.
Masterson.	Willacy.

Nays—6.

Alexander.	Griggs.
Green.	Hudspeth.
Greer.	Mayfield.

Absent.

Chambers.	Senter.
Cunningham.	Smith.
Glasscock.	Stokes.
Holsey.	Veale.
Looney.	

REASONS FOR VOTING.

I vote "yea" on motion to table the minority report, and also on the adoption of the majority report on House bill No. 18 for this reason: Several of the friends of the bill are absent, and being strongly in favor of this bill, I vote on the opposite side so that I will be in a position to move to reconsider, as the enemies of the bill have a majority now, when our friends, the friends of the measure, arrive.

HUDSPETH.

Senator Meachum moved to rescind the vote by which the adoption of the majority committee report was reconsidered and tabled.

The motion was lost by the following vote:

Yeas—6.

Brachfield.	Hudspeth.
Green.	Mayfield.
Grinnan.	Meachum.

Nays—16.

Alexander.	Masterson.
Barrett.	Murray.
Faust.	Paulus.
Greer.	Skinner.
Griggs.	Stone.
Harbison.	Terrell.
Harper.	Watson.
Kellie.	Willacy.

Absent.

Chambers.	Senter.
Cunningham.	Smith.
Glasscock.	Stokes.
Holsey.	Veale.
Looney.	

Senator Meachum moved to reconsider the vote by which the Senate refused to rescind the vote by which the vote on the adoption of the majority report was reconsidered and tabled, and to lay that motion on the table.

Senator Terrell made the point of order that when a motion to rescind had been made a motion to reconsider and table the vote by which the Senate refused to rescind was out of order.

The Chair overruled the point of order.

The question being a motion to reconsider and table

The yeas and nays were demanded, the roll was called, which developed no quorum, the following Senators answering to their names:

Yeas—17.

Barrett.	Meachum.
Brachfield.	Murray.
Faust.	Paulus.
Green.	Skinner.
Harbison.	Stone.
Harper.	Terrell.
Hudspeth.	Watson.
Kellie.	Willacy.
Masterson.	

Nays—3.

Alexander.	Mayfield.
Griggs.	

Absent.

Chambers.	Looney.
Cunningham.	Senter.
Glasscock.	Smith.
Greer.	Stokes.
Grinnan.	Veale.
Holsey.	

ADJOURNMENT.

Senator Stone moved a call of the Senate for the purpose of securing a quorum, and

Senator Alexander, at 7:20 o'clock, moved that the Senate adjourn until 10 o'clock tomorrow. The motion to adjourn prevailed by the following vote:

Yeas—13.

Alexander.	Masterson.
Barrett.	Mayfield.
Brachfield.	Murray.
Green.	Skinner.
Griggs.	Watson.
Harbison.	Willacy.
Hudspeth.	

Nays—7.

Faust.	Paulus.
Harper.	Stone.
Kellie.	Terrell.
Meachum.	

Absent.

Chambers.	Looney.
Cunningham.	Senter.
Glasscock.	Smith.
Greer.	Stokes.
Grinnan.	Veale.
Holsey.	

APPENDIX.

The following opinion of the Attorney General, relative to the Automatic Tax Board, was ordered printed in the Journal:

Lieutenant Governor Davidson:

At your request I send you a copy of the following opinion:

Austin, Texas, March 14, 1907.

Hon. Chas. Soward and Y. W. Holmes, of Committee on Revenue and Taxation, House of Representatives.

Gentlemen: I have examined the draft of proposed bill to be entitled "An Act to provide for a Board to calculate the ad valorem rate of taxes for State purposes each year, and to prescribe the duties of such Board."

I beg to report that I find no constitutional objection to this proposed measure.

Some days ago I advised you that I believed House bill No. 531 to be objectionable, on the ground that it was proposed by that bill to delegate discretionary powers to the Board and to authorize the Board to ascertain the rate

and make the levy. The proposed bill submitted now confers no discretion upon the Board, but imposes upon the Board the duty of making an arithmetical calculation merely, and the tax levy under the bill is to be made by the Legislature itself. In other words, the bill leaves merely the rate of tax to be ascertained by the designated board by a mathematical calculation upon the rule prescribed by law.

In Cooley on Taxation (page 100), it is said:

"There is a difference between making the law and giving effect to the law; the one is legislation, and the other is administration. We conceive that the Legislature must, in every instance, prescribe the rule under which taxation must be laid; it must originate the authority under which, after due proceedings, the tax gatherer demands the contribution; but it need not describe all the details of action, or even fix with precision, the sum to be raised, or all the particulars of its expenditure. If the rule is prescribed which, in its administration, works out the result, that is sufficient, but to refer the making of the rule to another authority, would be in excess of legislative power."

In the case of Savings and Loan Society vs. Austin (46 California, 415), the Supreme Court of California, in discussing a similar provision in the statutes of that State, said:

"We do not understand it to be seriously contended that if the Legislature had authorized the board, on ascertaining the total value of the taxable property in the State, in the manner prescribed by law, and also the amount of the appropriations for the fiscal year, to determine and fix the rate of taxation necessary to produce the requisite amount to meet the appropriations, that this would have been liable to any constitutional objection. The value of the taxable property and the adequate amount of the appropriations having been ascertained the rate of taxation requisite to produce the given amount would have been merely a matter of arithmetical calculation, involving no exercise of discretion."

In the opinion in this case, the court quoted, with approval, from the opinion of the Supreme Court of Illinois in the People vs. Reynolds (5 Gilman, 12), in which case it was said: "We see, then, that while the Legislature may not divest itself of its proper functions, or delegate its general legislative author-

ity, it may still authorize others to do those things which it might properly yet can not understandingly or advantageously do itself."

In the case of *Field vs. Clark* (143 U. S., 649), there was under consideration an act of Congress, which provided that so often as the President shall be satisfied that the government of any country producing and exporting certain named commodities imposes duties upon the agricultural or other products of the United States, which, in view of the free introduction into the United States of the commodities named, he may deem to be reciprocally unequal and unreasonable, "he shall have the power and it shall be his duty to suspend" the provisions of the act relating to the free introduction of such commodities "for such time as he shall deem just," and during such suspension, duties shall be levied as prescribed by the act.

It was contended that the act was unconstitutional as delegating to the President both legislative and treaty-making powers. The court held that it was not unconstitutional. I quote from the opinion at pages 692-693:

"Congress itself prescribed in advance the duties to be levied—while the suspension lasted. Nothing involving the expediency or the just operation of such legislation was left to the determination of the President * * *. When he ascertained the fact that duties and exactions reciprocally unequal and unreasonable were imposed upon the agricultural or other products of the United States by a country producing and exporting sugar, molasses, coffee, tea or hides, it became his duty to issue a proclamation declaring the suspension as to that country, which Congress had determined should occur. He had no discretion in the premises, except in respect to the duration of the suspension so ordered. But that related only to the enforcement of the policy established by Congress. As a suspension was absolutely required when the President ascertained the existence of a particular fact, it can not be said that in ascertaining that fact and in issuing his proclamation, in obedience to the legislative will, he exercised the function of making laws. Legislative power was exercised when Congress declared the suspension should take effect upon the named contingency. What the President was required to do was simply in execution of the act of Congress. It was not the making of law. He was the mere agent of the law-making department to ascer-

tain and declare the event upon which its expressed will was to take effect."

The court quoted from Locke's appeal (72 Penn. St., 491-498): "The Legislature can not delegate its power to make a law; but it can make a law and delegate a power to determine some fact or state of things upon which the law makes or intends to make its own action depend. To deny this would be to stop the wheels of government. There are many things upon which wise and useful legislation must depend which can not be known to the law-making power, and must, therefore, be a subject of inquiry and determination outside the halls of legislation."

I, therefore, conclude, as I have above stated, that the proposed bill by which the Legislature will itself declare the law, levy the tax, and order its assessment and collection, leaving merely the rate of tax to be ascertained by a mathematical computation upon a rule prescribed by the act, and imposing the duty of ascertaining the rate upon the Board named, leaving nothing to their discretion, is unobjectionable upon constitutional grounds.

Without undertaking to express any opinion upon the policy of the proposed legislation, since that does not come within my province, I do take the liberty of calling attention to the following matters, which I think important to be considered:

1. The tax rolls transmitted to the Comptroller by the tax assessor, as required by existing laws, are completed rolls; that is to say, the various taxes have been calculated and carried out upon the rolls. Inasmuch as under the proposed bill the assessor can not calculate the State ad valorem until the Board has acted, it will be impossible for him to comply with the bill under existing law in this matter, unless it is designed that in addition to the triplicate tax rolls to be made by Article 5127, the assessor shall make a fourth copy, to be sent to the Board before he runs out the tax upon the three copies required by Article 5127.

2. The tax rate when ascertained, should be certified to the tax assessor, instead of the collector, in order that it may be assessed by the assessor upon the tax rolls.

3. The quotient of the division required to be made by Section 3 must, in the nature of things, contain a decimal of possibly six or eight or more places. The calculation upon the tax rolls of

such a rate of tax will be an arduous undertaking.

4. Section 3 concludes: "The quotient shall be the number of cents on the \$100 valuation, to be levied and collected for the current year for State purposes * * *." I think the bill should, in terms, plainly levy the tax. I suggest that Section 3 should conclude with a provision substantially as follows:

"And there shall be levied and collected for the year 1905, and annually thereafter, and there hereby is levied and ordered assessed and collected for the year 1905, and annually thereafter, an ad valorem tax on all real property situated and on all property owned in the State on the first day of January in each and every year, and on all property sent out of the State prior to the first day of January for the purpose of evading the payment of taxes thereon, and afterwards returned to the State, except so much thereof as may be exempted by the Constitution and laws of this State, or the United States, a tax of and at the rate of the number of cents and fractional part of a cent, to be ascertained each year by the calculation hereinbefore prescribed, on the \$100 cash value thereof, estimated in lawful currency of the United States, which cash value shall be estimated in the manner prescribed by law."

I herewith return your draft of proposed bill.

Very truly yours,
(Signed) R. V. DAVIDSON,
Attorney General.

COMMITTEE REPORTS.

(Floor Report.)

Committee Room,
Austin, Texas, May 1, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Judiciary Committee No. 2, to whom was referred

Senate bill No. 57, A bill to be entitled "An Act to amend Article 402 of Chapter 6, Title XI, Penal Code of the State of Texas, as amended by Chapter 40, of the Acts of the Regular Session of the Twenty-eighth Legislature of the State of Texas, approved March 16, 1903, relating to unlawfully selling any intoxicating liquor, prescribing the punishment therefor, and declaring an emergency,"

Have had the same under consideration, and we report it back to the Sen-

ate with the recommendation that it do pass and be printed in the Journal.

Terrell, Acting Chairman; Barrett, Alexander, Hudspeth, Meachum, Greer, Paulus.

S. B. No. 57. By Alexander and Barrett.

A BILL

To Be Entitled

An Act to amend Article 402 of Chapter 6, Title XI, Penal Code of the State of Texas, as amended by Chapter 40 of the Acts of the Regular Session of the Twenty-eighth Legislature of the State of Texas, approved March 16, 1903, relating to unlawfully selling any intoxicating liquor, prescribing the punishment therefor, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Article 402, Chapter 6, Title XI, of the Penal Code of the State of Texas, is hereby amended so as to read as follows:

Article 402. If any person shall sell any intoxicating liquor in any county, justice precinct, school district, city or town, or subdivision of a county in which the sale of intoxicating liquor has been prohibited under the laws of this State, or if any person shall give away any intoxicating liquor in any such county, justice precinct, school district, city or town, or subdivision of a county, with the purpose of evading the provisions of said laws, he shall be punished by imprisonment in the penitentiary for a term not less than one nor more than three years.

Sec. 2. The near approach of the end of the session, and the crowded condition of the calendar, create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

(Floor Report.)

Committee Room,
Austin, Texas, May 1, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 23, A bill to be entitled "An Act to provide for the appointment of a court stenographer to report cases, to make the report of such

stenographer, when approved and filed, the basis for the statement of facts of the oral evidence in any case where an appeal is taken, to prescribe the way and manner in which statement of facts shall be made up, and to provide for the compensation of such stenographer, and declaring an emergency."

Have had the same under consideration, and report it back to the Senate with the recommendation that it do pass, and be not printed.

Stone, Chairman; Skinner, Green, Paulus, Grinnan, Brachfield, Harper, Meachum, Griggs.

Committee Room,
Austin, Texas, April 30, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Finance Committee, to whom was referred

House bill No. 8, A bill to be entitled "An Act to amend Section 8 of Chapter 130 of the Acts of the Regular Session of the Twenty-ninth Legislature of the State of Texas, approved April 17, 1905, entitled 'An Act to provide a method for the assessment and collection of taxes on real property omitted from the tax rolls for the year or years since the year 1884, and a method for reassessing and collecting the tax on real properties on which former assessments are found to be invalid, or which have been declared invalid by a district court for any reason in any suit to enforce the collection of taxes on said properties; to validate certain described assessments made under various methods, and to promote generally the collection of all delinquent taxes,'"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

WILLACY, Chairman.

Committee Room,
Austin, Texas, May 1, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Finance Committee, to whom was referred

House bill No. 13, A bill to be entitled "An Act to tax property passing by will or by descent or by grant or gift, taking effect on the death of the grantor or donor,"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass, with the following amendments:

Strike out the words "available school fund," in line 3 of Section 13 and insert in lieu thereof the words "general revenue."

Strike out the words "or any public corporation or charitable, educational or religious organization within this State."

WILLACY, Chairman.

Committee Room,
Austin, Texas, May 1, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Finance Committee, to whom was referred

House bill No. 10, A bill to be entitled "An Act prescribing franchise taxes to be paid by private, domestic and foreign corporations for the exercise of the privilege of doing business within the State of Texas, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass, with the following amendment:

Amend by striking out all of Sections 1 and 2 and including the House engrossed rider to Section 1, and insert in lieu thereof the following:

"Section 1. Except as herein provided, each and every private domestic corporation heretofore chartered, or that may hereafter be chartered under the laws of this State shall, on or before the first day of May of each year, pay in advance to the Secretary of State a franchise tax for the year following, which shall be computed as follows: One dollar on each \$2000 or fractional part thereof of the authorized capital stock of the corporation up to and including \$100,000, and \$2 on each \$10,000 or fractional part thereof of such stock in excess of \$100,000, and up to and including \$1,000,000; and \$2 on each \$20,000 or fractional part thereof of such stock in excess of \$1,000,000 and up to and including \$10,000,000; and \$2 on each \$50,000 or fractional part thereof of such stock in excess of \$10,000,000, unless the total amount of capital stock of such corporation issued and outstanding, plus its surplus and undivided profits shall exceed its authorized capital stock, and in that event the franchise tax of such corporation for the year following shall be \$2 on each \$2000 or fractional part thereof of the authorized capital stock of such corporation issued and outstanding, plus its surplus and undivided profits up to and including \$100,000; and \$2 on each \$10,000 or fractional

part thereof of such stock, surplus and undivided profits, in excess of \$100,000, and up to and including \$1,000,000; and \$2 on each \$20,000 or fractional part thereof of such stock, surplus and undivided profits in excess of \$1,000,000 and up to and including \$10,000,000; and \$2 on each \$50,000 or fractional part thereof of such stock, surplus and undivided profits in excess of \$10,000,000; provided, that such franchise tax shall not in any case be less than \$10.

"Sec. 2. Except as herein provided, each and every foreign corporation authorized or that may hereafter be authorized to do business in this State, shall, on or before the first day of May of each year pay in advance to the Secretary of State a franchise tax for the year following, which shall be computed as follows, viz.: One dollar on each \$1000 or fractional part thereof of the authorized capital stock of the corporation up to and including \$100,000; and \$2 on each \$5000 or fractional part thereof of such stock in excess of \$100,000 and up to and including \$1,000,000; and \$2 on each \$20,000 or fractional part thereof of such stock in excess of \$1,000,000 and up to and including \$10,000,000; and \$2 on each \$50,000 of such stock in excess of \$10,000,000; unless the total amount of the capital stock of such corporation issued and outstanding, plus its surplus and undivided profits, shall exceed its authorized capital stock, and in that event the franchise tax of such corporation for the year following shall be: Two dollars on each \$100,000 or fractional part thereof of the authorized capital stock of such corporation, issued and outstanding plus its surplus and undivided profits, up to and including \$100,000; and \$2 on each \$5000 or fractional part thereof of such stock, surplus and undivided profits in excess of \$100,000 and up to and including \$1,000,000; and \$2 on each \$20,000 or fractional part thereof of such stock, surplus and undivided profits in excess of \$1,000,000, and up to and including \$10,000,000; and \$2 on each \$50,000 of such stock, surplus and undivided profits in excess of \$10,000,000; provided, that such franchise tax shall not in any case be less than \$25."

WILLACY, Chairman.

Committee Room,

Austin, Texas, May 1, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed

Bills have carefully examined and compared

Committee Substitute Senate bill Nos. 41 and 43, A bill to be entitled "An Act to create a State Text-Book Board, and to procure for use in the public free schools of the State of Texas a series of uniform text-books; defining the duties of certain officers therein named; making an appropriation therefor; defining certain misdemeanors; providing for a bond for the faithful performance of the contract, and to cover liquidated damages for fraud or collusion, and authorizing the Attorney General to bring suit therefor, and providing penalties for violations of the provisions of this act, and declaring an emergency,"

And find the same correctly engrossed.
CUNNINGHAM, Chairman.

FIFTEENTH DAY.

Senate Chamber,

Austin, Texas,

Thursday, May 2, 1907.

The Senate met pursuant to adjournment, Lieutenant Governor Davidson presiding.

Roll call, quorum present, the following Senators answering to their names:

Alexander.	Masterson.
Barrett.	Mayfield.
Brachfield.	Meachum.
Cunningham.	Murray.
Faust.	Paulus.
Green.	Senter.
Greer.	Skinner.
Griggs.	Smith.
Grinnan.	Stokes.
Harbison.	Stone.
Harper.	Terrell.
Hudspeth.	Watson.
Kellie.	Willacy.

Absent.

Chambers.	Looney.
Glasscock.	Veale.
Holsey.	

Prayer by the Chaplain, Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Kellie, the same was dispensed with.

(See Appendix for committee reports.)

SIMPLE RESOLUTION.

By Senator Barrett:

Whereas, The heating system of the